

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1646 – HB 1591

February 12, 2018

SUMMARY OF ORIGINAL BILL: Authorizes electric cooperatives to utilize real property, personal property, rights-of-way, and easements held by the cooperative for the purpose of establishing broadband internet infrastructure. Authorizes cooperatives to allow other entities to operate electric, telecommunications, or broadband internet services within transmission and distribution lines constructed and maintained by the cooperative.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – A precise fiscal impact to state and local court systems cannot be determined with any certainty because the extent of future lawsuits that would occur in the absence of this legislation is unknown.

IMPACT TO COMMERCE OF ORIGINAL BILL:

Other Fiscal Impact – Due to multiple unknown factors, a precise impact to commerce and jobs in Tennessee cannot reasonably be determined.

SUMMARY OF AMENDMENT (012868): Adds language to the original bill to specify that cooperatives are only authorized to allow other entities who are currently permitted by law to operate such systems within the cooperative's service area to operate electric, telecommunications, or broadband internet services within transmission and distribution lines constructed and maintained by the cooperative.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the corrected fiscal note.

Assumptions for the bill as amended:

- Public Chapter 228 of 2017 authorizes electric cooperatives to provide broadband service; the proposed amendatory language would authorize electric cooperatives to utilize easements and property already held by the cooperative in order to install infrastructure needed for the delivery of broadband service.
- Pursuant to Tenn. Code Ann. § 65-25-103, electric cooperatives are nonprofit entities who, pursuant to Tenn. Code Ann. § 65-25-112, distribute revenues for any fiscal year in excess of the amount necessary to defray the expenses of the cooperative, to the patrons of the cooperative.

- While it is unknown how many electric cooperatives will elect to lease established infrastructure, any permissive recurring increase in electric cooperative revenue will be allocated to defraying the expenses of the cooperative with any further revenues distributed to the cooperative's patrons.
- Based on information provided by representatives of the 24 electric cooperatives in the state, the proposed amendatory legislation will avoid future lawsuits that will be filed in the absence of the legislation. *Electric cooperatives in some states have faced class action lawsuits because the state easement law did not contemplate the modern system requirements for the provision of electric and broadband internet services.*
- Due to a number of unknown factors, including but not limited to the number of lawsuits that would be filed in the absence of the legislation as amended, the year in which any lawsuit will be filed, or the length of time prior to any lawsuit being settled, the exact fiscal impact to state and local court systems cannot reasonably be determined.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

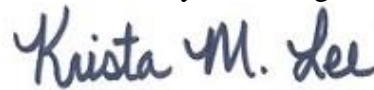
Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- It is unknown how many electric cooperatives will choose to lease infrastructure to other private companies within Tennessee, the extent of any rate charged within a lease, and the extent of any cost avoidance businesses may experience from not establishing their own infrastructure.
- Due to multiple unknown factors a precise impact to commerce and jobs in Tennessee cannot reasonably be determined.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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